

Notice of Allowability

Application No.

09/355,635

Applicant(s)

CONROY ET AL.

Examiner

Art Unit

Michael C. Miggins

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/10/05.
2. ☒ The allowed claim(s) is/are 30-33, 36-40 and 42-49.
3. ☒ The drawings filed on 02 August 1999 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 02172005.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Michael C. Miggins
Patent Examiner
CAU 1772
[Signature]

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Richard Tushin on 2/17/05.

The application has been amended as follows:

In the claims:

Claims 20-29 are canceled.

In claim 42, line 4, after "comprises" and before "cement" the phrase "at least one" has been deleted and the term - - Portland - - has been inserted in place thereof.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

With regard to instant claims 30 and 42 the reasons for allowance is applicant's recited method for protecting a metal drinking water pipe wherein the drinking water pipe is coated a cement composition comprising portland cement and 5-30 weight percent metakaolin.

Phelphs (US 4,298,634), Heitzmann (WO 89/02878) and Jones et al. (GB 2 294 259, cited in applicant's IDS of 8/27/99).

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Phelps teaches the lining of a metal pipe with portland cement. Heitzmann teaches a portland cement composition comprising at least 4 parts of metakaolin for use on roads, air fields and the like. Heitzmann does not teach that the portland composition is used in drinking water pipes. Furthermore, the purpose for adding the metalkaolin in the composition of Heitzmann is to aid in curing below the freezing point of water (page 2, lines 24-26). Although Heitzmann does suggest that the composition can be used in all weather concreting (page 2, lines 1-6), the purpose for adding the metalkaolin in the composition of Heitzmann is to aid in curing below the freezing point of water (page 2, lines 24-26). The combination of Phelps and Heitzmann does not hold because there is insufficient motivation to combine the references to arrive at applicant's claimed invention. One of ordinary skill in the art having the teachings of Phelps would not look to the teachings of Heitzmann to add metakaolin to portland cement to repair drinking water pipes because the purpose for adding the metalkaolin in the composition of Heitzmann is to aid in curing below the freezing point of water and Phelps teaches an aqueous treatment step which of course would not work if the aqueous solution is frozen.

Jones et al. teach the use metakaolin in concrete compositions to improve the durability of concrete when exposed to aggressive conditions such as those where there is contact with aqueous media of low pH. However, Jones et al. do not teach portland cement and does not teach the use of metakaolin in drinking water pipes and Jones et al. does not teach that the metakaolin is present in portland cement in an amount of from 5-30 weight %.

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Applicant's recited amount of metakaolin appears to be critical since that specific amount is needed to protect drinking water pipes. The current invention appears to be an improvement over prior art drinking pipes and is not contemplated in the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is (571) 272-1494. The examiner can normally be reached on Monday-Friday; 1:30-10:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pyon Harold can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

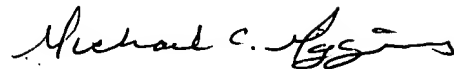
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Michael C. Miggins

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A handwritten signature in cursive script, appearing to read "Michael C. Miggins".

MCM

February 17, 2005